29 AUG 2000

UNITED STATES DEPARTMENT OF COMMERCE
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In re Application of   :
MÜLLER, Rudolph *et al*   :
Application No.: 09/029,425   :
PCT No.: PCT/EP96/04188   :
Int. Filing Date: 25 September 1996 : DECISION ON PETITION
Priority Date: 25 September 1995 : UNDER 37 CFR 1.181
Attorney's Docket No.: 60174-012 :
For: METHOD OF INSERTING A FASTENER :
   ELEMENT, BOLT ELEMENT,   :
   RIVETING DIE ...   :

   This decision is in response to applicants' "Improper Notification of Abandonment" filed 12 July 2000. This is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

   On 10 December 1998, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) to applicants indicating that a declaration in compliance with 37 CFR 1.497(a) and (b). A one-month time period for response was set.

   On 14 December 1998, applicants purportedly filed an executed declaration for the above-captioned application.

   On 30 March 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to Form PCT/DO/EO/905 within the time period set.

   On 12 July 2000, applicants filed the instant petition which was accompanied by, *inter alia*, a postcard receipt of documents purportedly submitted 15 December 1998 including a copy of the "Response to File Missing Parts," a copy of an executed declaration, and a copy of the verified statement claiming small entity status.

DISCUSSION

In the instant petition, applicants claim that "[t]he documents requested in the Notice to File Missing Parts of Application dated December 10, 1998 were filed in the U.S. Patent and Trademark Office on December 14, 1998." MPEP 503 lists procedures for applicants to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.
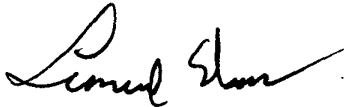
In this case, applicants have provided a copy of a filing receipt. The receipt clearly identifies the application and all papers submitted. The filing receipt acknowledges that an executed declaration, small entity declaration, and "Response to Missing Parts" were mailed. The receipt has a date "12/15/98" written on it. However, the filing receipt does not have the requisite PTO date stamp on it. Thus, the filing receipt submitted is not *prima facie* evidence that an executed declaration was filed in the above-captioned application on 14 December 1998.

CONCLUSION

Accordingly, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The above-captioned application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, applicants must submit a renewed response within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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